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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,989	02/14/2002	Takashi Hasegawa	NIT-322	4988

7590 03/23/2005

Mattingly, Stanger & Malur, P.C.  
Suite 370  
1800 Diagonal Road  
Alexandria, VA 22314

EXAMINER
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LAstra, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 03/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/073,989

Applicant(s)

HASEGAWA, TAKASHI

Examiner

DANIEL LASTRA

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. Claims 1-6 have been examined. Application 10/073,989 (METHOD OF THE COOPERATION SERVICE, CONTENTS RECEIVER AND ATTRACTION SYSTEM) has a filing date 02/14/2002 and foreign data 06/11/2001.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of: (1) whether the invention is within the technological arts; and (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the instant claims fail to recite the use of any type of technology (e.g. computer system) within the recited steps of cooperation service with attraction.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

Although the claimed invention produces a useful, concrete and tangible result, since the claimed invention as a whole is not within the technological arts, as explained above, claims 1-6 are deemed to be directed to non-statutory subject matter.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al (U.S. 6,514,083).

As per claim 1, Kumar teaches:

A method of cooperation service with attraction and seeing and listening of contents comprising:

taking an image to which a customer during attraction use is related (see column 5, lines 15-50; figure 4a). Kumar does not teach that the image is taken in a park. However this difference is only found in the nonfunctional descriptive material and is not functionally involved in the steps recited. The taking of an image related to a customer

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and combining that image with other content would be performed the same regardless if the customer image is taken in a park or in a studio. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the Kumar's system in any type of environment, such as park or a studio, because the place where the image is taken does not functionally relate to the steps in the method claimed and because the subjective interpretation of the place where the image is taken does not patentably distinguish the claimed invention.

capturing the taken image into a receiver (see column 5, lines 35-45); and inserting the park image into contents related to the attraction, the contents being supplied for seeing and listening by using the receiver (see figure 4a).

As per claim 2, Kumar teaches:

A method of cooperation service with attraction and seeing and listening of contents comprising:

taking an image to which a customer during attraction use is related (see column 5, lines 15-50; figure 4a). Kumar does not teach a park image but the same arguments applied to claim 1 are applied to claim 2.

recording the taken image onto a portable recording medium (see column 5, lines 35-45);

reading the image recorded onto the portable recording medium to capture the park image into a receiver (see column 5, lines 15-50);

and inserting the image into contents related to said attraction, the contents being supplied for seeing and listening by using the receiver (see figure 4a).

As per claim 3, Kumar teaches:

A portable recording medium used in the method of cooperation service with attraction and seeing and listening of contents of claim 2, wherein a taken park image to which a customer during attraction use is related is recorded (see column 5, lines 50-65). The same rejection applied to claim 2 is applied to claim 3.

As per claim 4, Kumar teaches:

A method of cooperation service with attraction and seeing and listening of contents comprising the steps of:

taking an image to which a customer during attraction use is related (see column 5, lines 15-50; figure 4a). Kumar does not teach that the image is taken in a park. However, the same arguments applied to claim 1 are applied to claim 4.

transmitting the taken image to a broadcaster (see column 5, lines 15-65);

delivering the received image and contents related to said attraction from the broadcaster (see column 5, lines 15-65);

receiving the delivered image and the delivered contents by a receiver (see figure 1, item 16);

and inserting the received image into the contents that are supplied for seeing and listening by using the receiver (see figure 4a);

Kumar does not expressly teach wherein the image has a customer ID identified with a customer ID (identifier) possessed by the receiver. However, Official notice is taken that it is old and well known in the business art that for accounting and/or billing purpose, all customer that engage in a business transaction are identified by their

customer ID or identification number. It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention was made that Kumar would identify customers by their customer ID to appropriately charge them for using the system (see Kumar column 7, lines 20-25). This feature would help avoid customers being billed incorrectly for using the system.

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumar et al (U.S. 6,514,083) in view of Angles (US 5,933,811).

As per claim 5, Kumar teaches:

A method of cooperation service with attraction and seeing and listening of contents comprising:

recording an attraction use history of a customer onto a portable recording medium (see column 7, lines 15-25).

reading the attraction use history recorded onto the portable recording medium by a receiver (see column 7, lines 15-25);

Kumar fails to teach and supplying to said customer a privilege service corresponding to the attraction use history when seeing and listening to contents related to said attraction, the contents being supplied for seeing and listening by using the receiver. Angles teaches a system that targets promotions and content to users based upon the users' viewing history (see column 20, lines 11-64). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Kumar would target promotions and content to users based upon

the users' viewing history, as taught by Angles. This feature would serve as incentive to users as the users would receive promotions or credits for viewing selected content.

As per claim 6, Kumar teaches:

An attraction system for executing an attraction used in the method of cooperation service with attraction and seeing and listening of contents of claim 5, comprising: at least an information writer which records an attraction use history of a customer onto a portable recording medium (see column 7, lines 20-25). The same rejection applied to claim 5 is applied to claim 6.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Capek teaches a system for providing insertion during delays in interactive systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

The Examiner is scheduled to move to the new Alexandria office in April 2005 (or later). The Alexandria phone number would be 571-272-6720 and RightFax number



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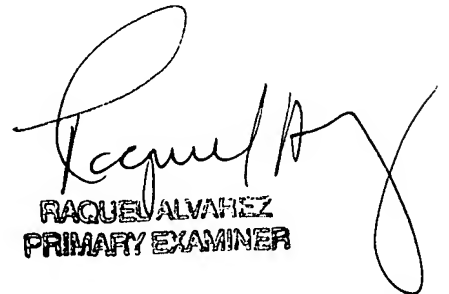
571-273-6720. The examiner's supervisor, Eric W. Stamber, new Alexandria number would be 571-272-6724. The current numbers would be in service until the move.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL

Daniel Lastra  
March 5, 2005

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RAQUEL ALVAHEZ  
PRIMARY EXAMINER